

1938-0002DIV

REMARKS

Reconsideration of the present application in view of the following arguments is requested. This application includes claims 21-39 which were added to this divisional application by preliminary amendment. Applicant appreciates the indication of allowable subject matter in dependent claims 30 and 32-39.

Claims 21-29 and 31 were rejected under 35 U.S.C. §103(a) as obvious in view of the combination of the "Hot Pepper Wax" publication and U.S. Patent No. 631,738 to Dowie. It is respectfully submitted that this combination of references fails to disclose every element of the rejected claims. In particular, independent claim 21 recites that the composition for mole control has an active ingredient that is "adsorbed on an inert solid matrix". Neither of the references discloses or suggests this element of claim 21.

It is recognized that the "Hot Pepper Wax" reference only discloses a mole repellant in a liquid form that includes castor oil. It was suggested that the Dowie patent disclosed the use of "hot pepper, but applies it on insert [sic] solid matrices of line[sic], iron ... or coal". As explained in Dowie, the stated ingredients are combined and that the "mixture is thoroughly mingled and makes a fine powder". The active ingredients are identified as chili pepper (not hot pepper) and hellebore. There is nothing in the Dowie reference to indicate in what form the chili pepper or hellebore is provided – only that these ingredients are combined with other solid materials to form a fine powder. There is no discussion in Dowie of any substance being adsorbed or of any substance that is capable of adsorbing. Nor is there anything in this reference from which one can unequivocally conclude that the chili pepper is provided in liquid form rather than as a powder.

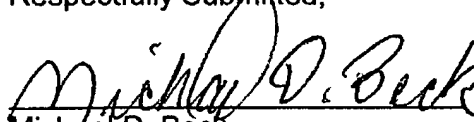
Thus, neither cited reference discloses an active ingredient adsorbed onto an inert solid matrix. Since this element of Applicant's claim 21 is absent from the cited combination, there is no prima facie case for obviousness of this claim. Thus, it is believed that claim 21 is allowable as written, along with all of its dependent claim, including previously rejected claims 22-29 and 31.

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Withdrawal of the rejection of claims 21-29 and 31 is solicited. It is believed that application is believed to be in condition for allowance so action toward issuance of a Notice of Allowance is requested.

Respectfully Submitted,

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